UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte TAYLOR J. LEAMING

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Appeal 2009-007679
Application 10/829,008
Technology Center 2100

_____

Before: THU A. DANG, CAROLYN D. THOMAS, and
DEBRA K. STEPHENS, *Administrative Patent Judges.*

STEPHENS, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) (2002) from a final rejection of claims 1, 2, 5-13, 16-35 and 38-44. Claims 3, 4, 14, 15, 36, 37 and 45-50 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b) (2010).

We AFFIRM.

Introduction

According to Appellant, the invention is directed to smart cards and related methods. In particular, the invention is directed to a smart card which has an integrated circuit (IC). The integrated circuit may include at least one data terminal that communicates with a host device and a processor for providing an attachment signal on the at least one data terminal for recognition by the host device. The processor cooperates with the host device to perform an enumeration based upon at least one default descriptor. (Specification 1 [001] and Abstract).

STATEMENT OF CASE

Exemplary Claim(s)

Claim 1 is an exemplary claim and is reproduced below:

 1. An integrated circuit for a smart card and comprising:

 at least one data terminal for providing communications with a host device; and

 a processor for
  providing an attachment signal on the at least one data terminal for recognition by the host device,
  cooperating with the host device to perform an enumeration based upon at least

one default descriptor, and

selectively removing the attachment signal from the at least one data terminal and thereafter again providing the attachment signal on said at least one data terminal and cooperating with the host device to perform a new enumeration based upon at least one alternate descriptor based upon allocations of system bus bandwidth to other devices communicating with the host device over the system bus.

Prior Art

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Lu	US 2005/0108571 A1	May 19, 2005
		(filed on May 19, 2004)
Maier	US 2005/0251596 A1	Nov. 10, 2005
		(filed on July 15, 2003)

REJECTIONS

Claims 1, 2, 5-13, 16-35 and 38- 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Maier, and Lu. (Ans. 3-12).

GROUPING OF CLAIMS

Appellant argues all of the independent claims 1, 12, 23 and 34 collectively as a group without designating a representative claim. (Br. 9-13). We select independent claim 1 as the representative claim. We will, therefore, treat commensurately recited independent claims 12, 23, 34 and dependent claims 2, 5-11, 13, 16-22, 24-33, 35, and 38-44 as standing or falling with representative claim 1.

We accept Appellant's grouping of the claims. *See* 37 C.F.R.
§ 41.37(c)(1)(vii).

ISSUE 1

35 U.S.C. § 103(a): claims 1, 12, 23 and 34

Appellant asserts that their invention is not obvious over Maier and
Lu because "[t]he Examiner's rejection of the claims are improper" for the
reason that "the Examiner has mischaracterized the teachings of the prior art,
and thus the proposed combination of these references fails to properly
provide all of the elements in the claims." (Br. 9). More specifically,
Appellant contends "Maier simply fails to teach or properly provide that the
re-enumeration is performed based upon allocations of system bus
bandwidth to other devices communicating with the host device over the
system bus" (Br. 13).

Additionally, Appellant argues that Maier does not disclose the smart
card (as recited in claim 1), "selectively removes its attachment signal from
the system bus and re-enumerates" (Br. 14).

The Examiner finds that

> [Appellant's] argument is not persuasive because paragraph
> 0034 of Maier discloses, "Two of these four modes require a
> bandwidth reservation, which is accorded or not by the USB
> host after an enumeration phase, *depending on the bandwidth
> already reserved by other USB devices*, which are plugged onto
> the USB bus". According to this paragraph, the card is storing
> data base[d] *on the bandwidth already reserved by other USB
> devices*. The applicant's claim language is not specific with
> respect to 'allocating'. With respect to detach and reattach, as
> argued in pages 12 and 13 of the brief, paragraph 0034 of Maier
> discloses of devices that were previously attach to the host.

(Ans. 13, emphasis original).

Issue: Has Appellant shown the Examiner erred in finding that the applied references either alone or in combination teach "cooperating with the host device to perform a new enumeration based upon at least one alternate descriptor based upon allocations of system bus bandwidth to other devices communicating with the host device over the system bus" as recited in claim 1 and commensurately recited in claims 12, 23, and 34?

FINDINGS OF FACT (FF)

Maier

(1)   Maier teaches a system comprising a main device and an auxiliary device arranged to co-operate with each other. The auxiliary device effects a core functionality and comprises descriptors at least one of the descriptors defining a functionality different from the core functionality. The system includes a USB host connected to a USB device via a USB bus. (Abstract and [0028]).

(2)   Communication between the USB host and USB device can be in four different transfer modes: a control transfer, an interrupt transfer, a bulk transfer, and an isochronous transfer. "Two of these four modes require a bandwidth reservation, which is accorded or not by the USB host after an enumeration phase, depending on the bandwidth already reserved by other USB devices, which are plugged onto the USB bus." ([0029] - [0034]).

(3)   In an initialization step INIT, the USB device removes its pull-up resistor in order to detach itself and then re-attach itself. In a second checking step CHECK2, the USB device checks whether a negotiation flag

is activated or not. If the flag is activated, in a deactivating step DEACTIV, the negotiation flag is deactivated. In a second enumerating step ENUM2, the USB host enumerates the USB device. Only the descriptors (II) associated to the services (S1, S2, S3) which have been activated and the descriptor associated to the standard service (SO) will be retrieved. ([0051] – [0055]).

ANALYSIS

Appellant's arguments that Maier does not teach the USB device detaches and re-attaches itself to the USB bus based upon allocations of system bus bandwidth to other devices communicating with the host device over the system bus (App. Br. 12) is unpersuasive. Appellant is arguing limitations not recited in the claims (*See* claims 1, 12, 23, and 34). Specifically, claim 1 recites that the integrated circuit of the smart card comprises a processor for "*cooperating* with the host device to perform a new enumeration based upon at least one alternate descriptor based upon allocations of system bus bandwidth to other devices communicating with the host device over the system bus" (*emphasis ours*). The claim does not specify that the processor, integrated circuit, or smart card perform the new enumeration – only that the processor cooperates with the host device to have the new enumeration performed.

Further, we find that Maier suggests that the new enumeration is performed based on bandwidth already reserved (FF 2). Specifically, we find Maier suggests the enumeration is based on the allocations of system bus bandwidth to other devices communicating with the host device over the

system bus since a bandwidth reservation then occurs after the enumeration phase which accounts for the bandwidth allocation (*id.*).

Appellant's further argument that Maier does not teach the smart card selectively removes its attachment signal from the at least one data terminal and thereafter again providing the attachment signal on the data terminal (Br. 14) is similarly unpersuasive. Maier suggests that the USB devices selectively removes and provides the attachment signal by attaching and reattaching itself via a pull-up resistor (FF 3 and *See also,* Spec. 13, [0036]; Spec. 14-15, [0039]).

Therefore, Appellant has presented no persuasive arguments or evidence to show the Examiner erred in finding the combination of Maier and Lu teach or suggest suggests "selectively removing the attachment signal from the at least one data terminal and thereafter again providing the attachment signal on said at least one data terminal and cooperating with the host device to perform a new enumeration based upon at least one alternate descriptor based upon allocations of system bus bandwidth to other devices communicating with the host device over the system bus" as recited in claim 1. Since independent claims 12, 23 and 34 were argued based on those presented for claim 1 and dependent claims 2, 5-11, 13, 16-22, 24-33, 35, and 38-44 were not argued separately, these claims fall with claim 1. Accordingly, Appellant has not shown the Examiner erred in rejecting claims 1, 2, 5-13, 16-35, and 38-44 under 35 U.S.C. § 103(a) for obviousness over Maier and Lu.

DECISION

The Examiner's rejection of claims 1, 2, 5-13, 16-35, and 38-44 under 35 U.S.C. § 103(a) as being obvious over Maier and Lu is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2009).

AFFIRMED

Vsh